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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199922
Party	Plaintiff Christopher A McGrath
Correspondence Address	CHRISTOPHER MCGRATH McG PRODUCTIONS LTD 22 ST JOHN STREET NEWPORT PAGNELL MILTON KEYNES, MK16 8HJ UNITED KINGDOM legal@mcgproductionsltd.com
Submission	Answer to Counterclaim
Filer's Name	MR CHRISTOPHER McGRATH
Filer's e-mail	legal@mcgproductionsltd.com
Signature	/CA McGRATH/
Date	09/11/2012
Attachments	REPLY BY OPPOSER TO APPLICANT REPLY SEPTEMBER 2012.pdf (4 pages)(131487 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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OPPOSER'S REPLY TO APPLICANT'S REPLY TO OPPOSERS RESPONSE TO APPLICANT'S MOTION TO
STRIKE OPPOSER'S AMENDED NOTICE OF OPPOSITION AND TO DISMISS OPPOSITION WITH
PREJUDICE PURSUANT TO RULE 12(E) FED.R.CIV.P. AND BRIEF IN SUPPORT OF MOTION

Opposer Information

Name: Mr Christopher A McGrath

Entity: Individual: Citizenship UNITED KINGDOM

Address: 22 St John Street McG Productions Ltd

Newport Pagnell, BUCKS, MK16 8JH UNITED KINGDOM

Correspondence information:

Mr. Christopher McGrath

McG productions Ltd

22 St John Street Newport Pagnell

Milton Keynes, BUCKS, MK16 0EN UNITED KINGDOM

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Applicant Information

Application No 85053714 Publication date 05/03/2011

Applicant Nike, Inc.

One Bowerman Drive, DF4

Beaverton, OR 97005 UNITED STATES

1. The bare facts of the case are that Opposer introduced Nike to 20XII. They therefore had prior knowledge of it when, one week later, they began their application for 20XI.
2. Opposer “got there” first in the United States with 20XII as previously delineated, on Youtube and in a worldwide sports treasure hunt, both used to introduce the sports mark, 20XII, to the sports apparel market.
3. 20XI is so indisputably similar to 20XII that it would be ridiculous in the extreme to claim otherwise and would result in confusion because of such a similarity.
4. The sports apparel market occupied by Nike, Inc., is the exact same sports apparel market into which Opposer is building a unique sports brand, 20XII the Honor of Sport.
5. If these bare facts are insufficient in US law to preclude Nike, Inc from pressing ahead with 20XI due to some procedural defect in the face of common sense then Opposer has no clear idea what that defect is. The legalese is nigh-on impenetrable if there is something that has been missed; but in good faith every procedural requirement has been followed as far as can be followed by a reasonable reading of the Board’s requirements.

6. Conclusion

For the reasons set forth above, Opposer again requests that the Trademark trial and Appeal Board summarily dismisses the Applicant’s Trademark application or move to an expedited resolution at trial. This is not to fly in the face of the Board’s requirements but to state plainly that too much that is plausible on its face has been clouded by the Applicant’s desperate attempt to dismiss the matter on a procedural technicality, rather than deal with the straightforward case against it, a case that has already been agreed by the Board to be plausible on its face, but which the Applicant desperately tried to avoid by recourse to a request to rewrite, redraft, re-explain what had already been agreed by the Board to be a legitimate case fit for trial. No doubt, the Applicant’s hope of some technical error by the Opposer is behind the prevarication. But the fact is, the issues are clear: Christopher McGrath created a trademark identity for business, used it in the course of building that business in American before Nike, Inc. and both seek to operate in the same sports apparel arena with a near-identical trademark that is bound to cause confusion for the consumer.

Respectfully submitted,

Mr. Christopher Anthony McGrath.

11 September 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2012, a true and complete copy of the foregoing OPPOSER'S REPLY has been served by email on the Defendant at: hminsker@bannerwitcoff.com, bwlitdocket@bannerwitcoff.com to be followed by first class registered prepaid post to:

Correspondence:

HELEN HILL MINSKER

BANNER & WITCOFF LTD

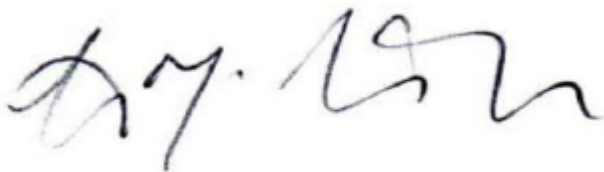
TEN SOUTH WACKER DRIVE, SUITE 3000

CHICAGO, IL 60606

UNITED STATES

And that similar service of OPPOSER'S REPLY was made by email on 11 September 2012 with follow-up first class, registered prepaid post to the United States Patent and Trademark Commissioner for Trademarks Office PO BOX 1451, Alexandria, VA 22313-1451.

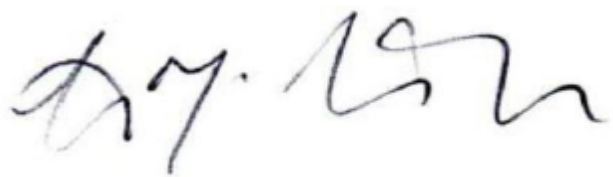
By: /Christopher A McGrath/

A handwritten signature in black ink, appearing to read "Ch. McGrath", written in a cursive style.

STATEMENT OF TRUTH:

Opposer believes the facts stated in this REPLY in the matter between (1) CHRISTOPHER ANTHONY McGRATH, (the Opposer) - and - Nike, Inc. (the Defendant) are true.

Signature of Opposer:

A handwritten signature in black ink, appearing to read "D. J. Smith". The signature is written in a cursive style with a large initial "D" and a stylized "J".

Date: 11 September 2012